



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

**STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135**

April 9th, 2003

Minutes of the April 9th, 2003 meeting of the Commission on Governmental Ethics and Election Practices held in the Commission's Meeting Room, PUC Building, 242 State Street, Augusta, Maine.

Present: Acting Chair: Hon. James O. Donnelly. Members: Hon. Alan F. Harding, (telephonically), Hon. Andrew Ketterer, Hon. David N. Ott, and Dr. Terrence J. MacTaggart. Commission staff: Counsel Phyllis Gardiner, Esq., Candidate Registrar Gina Pelletier, and Auditor Andrew Seaman.

At 10:02 a.m., Mr. Donnelly convened the meeting. The Commission considered the following items on the published agenda:

Agenda Item #1: Ratification of Minutes

Mr. Ketterer moved, Dr. MacTaggart seconded, and the members voted unanimously to adopt the minutes of the March 12th, 2003 meeting as submitted.

Agenda Item #2: Richard Pelletier; Treasurer, People for a Strong Maine Economy

Richard Pelletier submitted revised 48-Hour Reports of Late Expenditures made between October 26th and October 28th, 2002 that showed actual expenditure amounts that were lower than the estimated amounts reported previously. The statutory penalties based on the revised reports totaled \$1,884.48. After a brief discussion, Mr. Harding moved, Dr. MacTaggart seconded, and the members voted unanimously to assess a penalty of \$942.24 (fifty percent of the statutory penalty).

Agenda Item #4: Hon. Michael McAlevey

The Commission considered the 6-Day Pre-General Election Report that was due on October 30th, 2002 and filed on November 3rd, 2002, which had resulted in a preliminary penalty determination of \$1,929.12 based upon the statutory formula. After a brief discussion, Mr. Harding moved, Dr. MacTaggart seconded, and the members voted four to one (Mr. Donnelly opposed) to assess the full penalty of \$1,929.12. The majority voted that the penalty would be reduced by fifty percent to \$964.56 if it was paid within 90 days.

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Agenda Item #6: Hon. Joan Bryant-Deschenes

The Commission considered the 42-Day Post-General Election Report that was due on December 17th, 2002 and filed on January 15th, 2003, which had resulted in a preliminary penalty determination of \$2,811.55 based upon the statutory formula. Mr. Seaman presented documentary evidence that Representative Bryant-Deschenes informed the Commission staff on December 13th, 2002 of a serious illness in her family and stated that she would file the report as soon as possible. After a brief discussion, Mr. Ott moved, Mr. Harding seconded, and the members voted unanimously to waive the penalty in full.

Agenda Item #7A, B & C: John Larouche

The Commission considered: (A) the Monthly Lobbyist Report due on 1/15/03 and filed on 03/14/03, which had resulted in a preliminary penalty determination of \$200.00; (B) the Monthly Lobbyist Report due on 2/18/03 and filed on 3/14/03, which had resulted in a preliminary penalty determination of \$100.00; and (C) the Lobbyist Registration Report due on 1/13/03 and filed on 3/14/03, which had resulted in a preliminary penalty determination of \$600.00. After a brief discussion, Mr. Ketterer moved, Dr. MacTaggart seconded, and the members voted unanimously to assess penalties of \$200.00, \$100.00, and \$600.00, respectively.

Agenda Item #3: Paul Volle; The Christian Coalition of Maine

The Commission considered a formal complaint by Brenda Broder regarding The Christian Coalition of Maine's failure to register and report financial activities. Mr. Volle filed a Report of Contributions and Expenditures by Persons Other Than Political Action Committees on January 29th, 2003 showing all financial activity. The preliminary penalty assessment of \$9,825.15 (\$2,790.97 for the report due on 10/30/02 and \$7,034.18 for the report due on 12/17/02) was based upon the statutory formula. The Commission discussed the first time violation consideration given to late filers and other mitigating circumstances. After a brief discussion, Mr. Harding moved, Mr. Ketterer seconded, and the members voted four to one (Dr. MacTaggart opposed) to assess a penalty of \$3,684.43, thirty seven and one half percent of the statutory penalty. Mr. Volle then requested an opportunity to present a proposed payment schedule, and the Commission advised that if Mr. Volle wanted to make a payment arrangement, he should submit a proposal in writing.

Agenda Item #5: William E. Nickerson; Treasurer, Fleet National Bank Political Action Committee

The Commission considered Mr. Nickerson's letter of November 27th, 2002 in response to a Commission inquiry whether there had been a possible contribution limit violation as a result of a \$300 contribution to the Cianchette campaign in late October 2002 following a \$500 contribution earlier that month, both during the general election period. Both Fleet National Bank Political Action Committee and the Cianchette campaign filed amended reports showing that \$300 was returned. After a brief discussion, Mr. Ketterer moved, Mr. Ott seconded, and the



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

members voted unanimously to find a violation of exceeding the contribution limits but to impose no sanction.

Agenda Item #7D: Jim Nicholas; Treasurer, Portland City Committee of the Republican Party

The Commission considered the Quarterly Campaign Finance Report due on 12/17/02 and filed on 2/06/03, which had resulted in a preliminary penalty assessment of \$500.00 based upon the statutory formula. After a brief discussion, Mr. Harding moved, Dr. MacTaggart seconded, and the members voted unanimously to assess a penalty of \$250.00, one half of the preliminary determination.

Agenda Item #7E: Lisa Varela; Treasurer, Westbrook Citizens for Equal Rights

The Commission considered the Political Action Committee 42-Day Post-General Election Report that was due on December 17th, 2002, and filed on January 15th, 2003, which had resulted in a preliminary penalty determination of \$2,352.19 based upon the statutory formula. Mr. Harding moved, Mr. Ketterer seconded, and the members voted four to one (Mr. Ott opposed) to assess a penalty of \$588.05, which represented a 75% reduction of the preliminary penalty.

Agenda Item #7F: Bonnie Buckmore; Consumers for an Affordable Health Care

The Commission considered the Annual Lobby Disclosure Report due on 12/30/02 and filed on 01/07/03, which had resulted in a preliminary penalty determination of \$200.00 based upon the statutory formula. After a brief discussion, Mr. Ketterer moved, Dr. MacTaggart seconded, and the members voted unanimously to assess a penalty of \$200.00.

Agenda Item #7G: Mary Freeman; Maine People's Alliance

The Commission considered the Annual Lobbyist Disclosure Report due on 12/30/02 and filed on 01/06/03, which had resulted in a preliminary penalty determination of \$200.00 based upon the statutory formula. After a brief discussion, Mr. Ketterer moved, Mr. Ott seconded, and the members voted four to one (Mr. Harding abstaining from the consideration and vote) to assess a penalty of \$100.00 (one half of the preliminary penalty determination).

Agenda Item #8A: John Henderson

The Commission staff initially concluded that the expenditures of John Henderson's campaign may have exceeded his Maine Clean Election Act distribution by \$32.74. Prior to the Commission's meeting, however, Mr. Henderson informed Mr. Seaman that one of his expenditure checks in the amount of \$600 was not cashed because services were not rendered. After a brief discussion, Mr. Ketterer moved, Mr. Ott seconded, and the members voted unanimously to table the matter until a further review of the campaign's records could be completed by the Commission staff.



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Agenda Item #8B: James Mitchell

Aroostook County Probate Judge James P. Dunleavy ran for the State Senate in 2002 as an MCEA candidate. He incurred legal expenses during the 2002 campaign after allegations were raised that his candidacy violated the Maine Code of Judicial Conduct. His attorney, James Mitchell, requested guidance as to whether Dunleavy's legal expenses were a permissible use of public funds under the Maine Clean Election Act. The issue of possible judicial misconduct is pending in the state courts. After a discussion, Mr. Ketterer moved, Mr. Harding seconded, and the members voted unanimously to table the matter until an opinion is issued by the courts.

Agenda Item #8C: William Dobrowolski; Deputy Treasurer, Strimling for Senate

Senator Strimling's employer paid legal expenses during the 2002 campaign to verify that the candidate was not prohibited by the federal Hatch Act from running for State office as an employee of a non-profit organization that received federal funding. The Strimling campaign reimbursed the employer with MCEA funds so that the employer would not be deemed to have made a contribution to Sen. Strimling's campaign. Mr. Dobrowolski requested guidance as to whether this legal expense was a permissible expenditure under the Maine Clean Election Act. After a brief discussion, Mr. Harding moved, Mr. Ketterer seconded, and the members voted unanimously to table the matter until an opinion is issued by the courts in the Dunleavy matter.

Agenda Item #9A: Representative David Trahan

Rep. David Trahan requested guidance as to whether he could assist his local school district by soliciting funds from area businesses for school books while he is in session. Mr. Harding had concerns about the possibility of an area business being a lobbyist's employer or having a direct interest in legislation pending before legislative committees. After a brief discussion, Mr. Harding moved, Mr. Ketterer seconded, and the members voted unanimously to have counsel draft a letter stating that this activity appears to be outside the prohibition in 1 M.R.S.A. §1015(3) and does not appear to involve a direct conflict of interest under 1 M.R.S.A. §1014, but cautioning Rep. Trahan to be aware of the appearance of impropriety if he should solicit businesses with matters pending in the Legislature, based on the concerns expressed by Mr. Harding.

Agenda Item #9B: Robert Marks; president of the Land Association of Washington

The Land Association of Washington requested an investigation regarding whether another Washington County organization, the Rights Association of Washington, was obligated to file campaign finance reports with the Commission as a political action committee. Mr. Ketterer moved, Mr. Ott seconded, and the members voted unanimously to table the matter.



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Agenda Item #9C: List of non-filers for the 42-Day Post-General Report

Mr. Harding moved, Dr. MacTaggart seconded, and the members voted four to zero (Mr. Ketterer was not present at the time of this vote) to forward the list of non-filers to the Attorney General's Office.

Agenda Item #10: Other

None

Agenda Item #11: Executive Session: At 12:45 p.m., Mr. Harding moved, Mr. Ott seconded, and members voted unanimously to go into executive session pursuant to 1 M.R.S.A. §405(6)(A) to consider Commission personnel matters. That discussion concluded at 12:50 p.m. No action was taken in executive session that required ratification in public session.

There being no further business, by unanimous consent, the Commission adjourned at 12:50 p.m.

Respectfully submitted,

Andrew Seaman
Auditor